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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal-State Joint Board on Universal Service	))))	CC Docket No. 96-45

AT&T FNPRM COMMENTS ON JOINT BOARD RURAL TASK FORCE RECOMMENDED DECISION

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Pursuant to the Commission's Further Notice of Proposed Rulemaking, FCC 01-8, released January 12, 2001, and published in 66 Fed. Reg. 7867 (January 26, 2001) ("FNPRM"), and Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, AT&T Corp. ("AT&T") submits these comments on the Joint Board Rural Task Force Recommended Decision, FCC 00J-4, released December 22, 2000 ("Recommended Decision"). Under the auspices of the Joint Board, the Rural Task Force ("RTF") has undertaken a comprehensive analysis of the issues facing rural local exchange carriers ("LECs") and has addressed the types of reforms that may be necessary on an interim basis to sustain universal service, including access to advanced and information services, in the 21st century. The RTF spent 27 months constructing a detailed comprehensive package of universal service reform for rural carriers to be implemented over a five-year period. The Joint Board has considered the RTF proposal and urged the Commission to adopt the RTF plan. *Recommended Decision* ¶¶ 11, 23.

INTRODUCTION AND SUMMARY

AT&T *supports* the RTF plan as a carefully-crafted compromise that represents a reasonable balance of interests as between the need for increased Universal Service Fund ("USF") support and containment of USF growth and urges the

FCC to implement the entire plan as soon as possible. Recognizing that a failure to eliminate implicit subsidies from access charges and maintaining the current disparity between rural and non-rural carriers' interstate access rates threatens universal service, thwarts competitive entry in high-cost areas, and puts inordinate pressure on geographic toll averaging required by Section 254(g) of the Act, the RTF plan proposes that the Commission remove implicit subsidies from the access charges of rural carriers.

In this proceeding, the Commission needs to set interstate switched access rates that require rural carriers to recover access costs from end users via higher subscriber line charges and from interexchange carriers ("IXCs") via lower traffic-sensitive rates, and establish a High-Cost Fund III that would allow rural carriers to recover the residual of their revenue requirements from the USF. Given that the adoption of the RTF plan would increase the size of the USF, it is critical that the FCC eliminate the competitive inequity caused by the prior-year assessment mechanism of the USF ("USF lag") *prior* to adoption of the plan. Indeed, the Commission should also take steps to broaden the USF contribution base, per the RTF's proposal. If, for any reason, the RTF's proposal for access reform and USF lag relief is delayed beyond July 1, 2001, then all universal service enhancements embodied in the RTF recommendation should likewise be delayed to maintain the delicate balance between competing interests that the RTF has integrated in its comprehensive reform package.[1] To the degree that certain aspects of the package are adopted on a piecemeal basis, it would dampen the incentives of parties to continue to support issues on which they had compromised for the sake of supporting the package as a whole.

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1 *See Recommended Decision* at A-4 (The RTF Recommendation is attached as Appendix A to the *Recommended Decision*).

BACKGROUND

The key task of the RTF was to craft a package that balances the need to have a USF sufficient in size to preserve and advance universal service and to facilitate competition in rural carrier serving areas. The RTF accomplished this by recommending a number of revisions to the USF that would increase its size and make the funding portable.

To this end the RTF plan includes: (1) increasing, on a one-time basis, the high-cost loop component of the rural USF program by $118.5 million, with annual growth of the high-cost loop fund cap to be based on growth in lines plus inflation;[2] (2) adjusting the corporate operations expense limitation for growth without impacting the overall cap on the loop fund; (3) adding a "safety valve" mechanism to the current limitation on high-cost support for acquired or transferred exchanges that would allow rural carriers to obtain increased support when significant new investments are made to enhance the infrastructure of such exchanges; (4) adopting a "no barrier to advanced services policy" so that the USF would support plant capable of providing access to advanced services and establishing a "safety net" additive to high-cost loop support whenever a rural carrier's telephone plant-in-service increases by more than 14% as compared to the prior year; (5) quantifying the need for high-cost support based on a "modified embedded cost mechanism" given that tailoring the Synthesis Model inputs to rural carriers would be far too onerous a task;[3]

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2 The high-cost loop component accounts for $800 million of the current more than $1.5 billion rural USF program.

3 The RTF did not repudiate the concept of forward-looking cost determination for non-rural carriers. Rather, the RTF concluded that there is too great a difference between rural and non-rural carriers and retailoring the Model for rural carriers would be unduly burdensome.

(6) establishing a flexible system for disaggregating support to make available portable per-line support with timely distributions to all to new competitive carriers that qualify as eligible telecommunications carriers ("ETCs"); (7) creating a new fund to replace the implicit support that rural carriers must remove from their interstate access charges (High-Cost Fund III); and (8) basing USF contributions on the broadest possible base, not simply interstate telecommunications revenue, to ensure the stability of the USF.

The RTF suggests that its recommendation be implemented immediately and remain in place for a five-year period, with a re-evaluation prior to the end of that period. As noted above, the Joint Board has urged the Commission to adopt the RTF plan as a "foundation for implementing a rural universal service plan" and "to take advantage of the opportunity to craft a rural universal service plan that enjoys widespread support among diverse interests." *Recommended Decision* ¶¶ 11, 23. AT&T urges the Commission to adopt the RTF proposal as an integrated package for the next five years to provide stability and to further support the 1996 Act's twin goals of supporting universal service and competitive entry.

I. AS PART OF THE RTF PLAN, THE COMMISSION MUST REMOVE IMPLICIT SUBSIDIES FROM RURAL CARRIERS' INTERSTATE ACCESS CHARGES.

The RTF plan recognizes the need to replace implicit subsidies in the interstate access charges of rural carriers with a High-Cost Fund III. Such a fund is needed to respond to the disparity of access rates between rural and non-rural carriers, which stems from both: (1) actual cost differences between these two types of carriers, and (2) rate disparities given that implicit support in non-rural carriers' access charges has been eliminated and replaced by the interstate access-related USF component of the CALLS proposal which created a new $650 million USF program.[4] A failure to eliminate implicit subsidies from access charges and maintaining the current disparity between rural and non-rural carriers' interstate access rates threatens universal service, thwarts competitive entry in high-cost areas, and puts inordinate pressure on geographic toll averaging required by Section 254(g) of the Act.

At the outset, it should be noted that the access reform/High-Cost Fund III changes are required by the 1996 Act. As the Fifth Circuit explained in *Alenco Communications Inc. v. FCC,* 201 F3d 608, 615-616 (5th Cir. 2000) (citations omitted): "The FCC must see to it that both universal service and local competition are realized; one cannot be sacrificed in favor of the other. The Commission therefore is responsible for making the changes necessary to its universal service program to ensure that it survives in the new world of competition." . . . "[T]he old regime of implicit subsidies – that is, 'the manipulation of rates for some customer to subsidize more affordable rates for others' – must be phased out and replaced with explicit universal service subsidies – government grants that cause no distortion to market prices – because a competitive market can bear only the latter." . . . "Indeed, the Act requires that all universal service support be explicit. *See* 47 U.S.C. § 254(e). Finally, the program must treat all market participants equally – for example, subsidies must be portable – so that the market, and not local or federal government regulators, determines who shall compete for and deliver services to customers.

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4 *Access Charge Reform,* CC Docket No. 96-262, First Report and Order, FCC 97-158, ¶ 319, released May 16, 1997 ("Access Reform Order"); *see Access Charge Reform, etc.,* CC Docket No. 96-262, FCC 00-193, ¶¶ 201-205, released May 31, 2000 ("CALLS Order").

Again, this principle is made necessary not only by the economic realities of competitive markets but also by statute." *See* 47 U.S.C. § 214(e)(1).

To implement these statutory directives, the Commission needs to adjust access rates to reflect removal of implicit subsidies, convert such subsidies into explicit support and establish a competitively neutral High-Cost Fund III for their recovery. As the RTF explained, a "competitive market may be more efficient if the rates for local telephone service are based upon the cost of providing service, or if an explicit universal service support mechanism based upon the cost of providing service provides the same amount of support to both the ILEC and the competitive carrier. To eliminate, to the extent possible, implicit universal service support that may exist in interstate rates," implies that "access charge reform for rural carriers will be needed [and] an additional high-cost fund (e.g., High-Cost Fund III) should be created as an explicit replacement for the implicit support formerly embedded in access rates."[5]

Impact on Entrants. The FNPRM (¶ 4) asks how new entrants would be affected by the RTF plan. Without question, new entrants would be *positively impacted* by the RTF plan. For one, the RTF recognizes the need to replace implicit subsidies in interstate access charges of rural carriers with a High-Cost Fund III. This is critical for both incumbents and entrants because it makes such support portable. Absent portability of the subsidy, competitive entry into rural LEC territories will occur only for high-volume customers who are in the lower cost areas served by rural LECs. As such, broader competitive entry and consumer choice would be thwarted. At the same time, as the

[5] "Competition and Universal Service," Rural Task Force White Paper 5, September 2000, at 23.

incumbent suffers competitive losses of its high-volume, lower cost customers, it would lose the implicit subsidy necessary to sustain universal service for those customers in higher cost areas.

Indeed, one of the shortcomings of the MAG proposal,[6] which is also pending before the Commission, is that the RAS, the MAG analogue to the RTF High-Cost Fund III proposal, would be available only for LECs that elect Path A incentive regulation and who remain in the NECA pool, leaving implicit support embedded in the access rates of other ROR carriers. Thus, the RTF-proposed High-Cost Fund III is a superior mechanism to the RAS for making implicit support in rural carriers' access rates explicit. Within the RTF-articulated principles, the Commission needs to establish the appropriate parameters for High-Cost Fund III, so that it can implement the entire package simultaneously. Using the RTF framework, the Commission could selectively incorporate those portions of the MAG methodology that create the RAS and that would allow for efficient access rate level reform through a High-Cost Fund III to be implemented by July 1, 2001.

Impact on Toll Averaging. As the RTF recognizes (*Recommended Decision* at A-30 to A-32), retaining implicit subsidies in carrier access rates is incompatible with a competitive environment and the continuing disparity between rural and non-rural carriers' access rates creates significant pressure on interexchange carriers to geographically deaverage toll rates, in a manner that conflicts with the requirements of Section 254(g) of the Act. Not only will local entry be stymied into high-cost areas absent a portable subsidy,

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6 *See Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers, et al.*, CC Docket Nos. 00-256, 96-45, 98-77, 98-66, Notice of Proposed Rulemaking, FCC

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but interexchange carriers cannot hope to compete in a national long distance market when pitted against carriers with lower overall access costs because formidable regional competitors, namely the RBOCs, will take advantage of this easy arbitrage opportunity.

An interexchange carrier with nationally averaged rates will rapidly lose customers in low-cost areas (where its averaged rates are significantly higher than the regional carrier's) if it is required to continue to serve customers in high-cost areas (where its averaged rates are significantly below costs). As the Wisconsin PSC explained (at 2) in its LEC Pricing Flexibility Comments, filed October 29, 1999, in CC Dockets 96-262, 94-1, "If the cost [of access in rural areas] is significantly greater, long distance providers [originating] calls in those regions, but offering service across all regions at uniform prices, will be unable to compete with providers operating solely in low-priced urban areas. These providers will be able to continue to compete and to service these areas only if they are able to de-average toll rates to reflect these cost differences. The only other viable alternative for providers that wish to remain competitive in the face of significantly higher rural access costs, would be to avoid rural areas as much as possible."

Repricing Rural Carriers' Switched Access Rates. To remove implicit subsidies from access charges and avoid making it impossible for interexchange carriers to maintain geographically averaged toll rates, the Commission must immediately address access reform for rural carriers as part of the RTF plan. Specifically, the Commission needs to set the rate for switched access, including carrier-paid access and the caps on subscriber

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00-448, released January 5, 2001, and published in 66 Fed. Reg. 7725 (January 25, 2001) ("MAG NPRM").

line charges ("SLCs") paid by end users. AT&T suggests that the Commission follow the CALLS model for rural carriers by: (1) increasing the caps on subscriber line charges to the levels in CALLS;[7] (2) reducing the traffic-sensitive charges of rural carriers to $0.0095 per minute (equivalent to that of the smaller price cap companies under CALLS); (3) allowing rural carriers to recover the balance of their interstate switched access revenue requirements through a new interstate access-related component of the USF (High-Cost Fund III);[8] and (4) removing the USF flowback from carrier-paid access charges.[9] Under CALLS, the $0.0095 rate is available to "primarily rural" LECs, which is defined as a holding company that has less than 19 end user common lines per square mile served.[10] Because ROR LECs are also primarily rural, the $0.0095 rate is a reasonable rate for them as well. As the Commission noted in the *CALLS Order* (¶¶ 176-77), this rate is within the range of economic costs that have been presented and is reasonable for primarily rural LECs who, due to the nature of their service areas, have costs that are significantly higher than other

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7 As part of CALLS, the cap on subscriber line charges for primary residential and single-line business lines was raised from $3.50 to $4.35 on July 1, 2000 and will be further increased to $5.00 on July 1, 2001, to $6.00 on July 1, 2002, and to $6.50 on July 1, 2003. For non-primary residential lines, the cap was raised to $7.00 on July 1, 2000. *See* 47 C.F.R. § 69.152(d)-(e). For multi-line business customers, the cap had already been raised to $9.00 on July 1, 1997 per the Commission's *Access Reform Order*, which also included an inflation adjustment that raised the cap to $9.20 on January 1, 1999.

8 Proposed rules implementing High-Cost Fund II are attached as Appendix A.

9 In its comments on the MAG NPRM, AT&T points to the need for these reforms as well.

10 *CALLS Order* ¶ 162.

LECs. Regardless of the rates set, the Commission should conclude the FNPRM with an Order specifying the switched access rates.

Size of High-Cost Fund III. The RTF plan calls for the difference between the current interstate access revenues and the repriced revenues calculated above to be replaced by an explicit High-Cost Fund III component of the USF. Using AT&T's proposed carrier traffic-sensitive rate of $0.0095 per minute, setting SLC caps at the same level as for price cap carriers, and removing the USF flowback from the non-price cap carriers' switched access rates, AT&T estimates the remaining revenue requirement to be recovered from an explicit High-Cost Fund III to be roughly $610 million once the SLC caps increase to their maximum value under CALLS.[11]

USF Flowback. Finally, the Commission should require rural carriers to recover their USF obligations from their end user customers either in the form of an increment to the SLC or an additional line-item on the customer bill. As the Fifth Circuit has ruled, recovery of LECs' USF contributions through carrier-paid access charges constitutes an impermissible implicit subsidy. *Texas Office of Public Utility Counsel v. FCC.*[12] The Commission should ensure that High-Cost Fund III does not contain any

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11 The $610 million is predicated on the $0.0095 rate as well as the removal of the USF flowback from common line rates and is based on forecasted demand data for the period July 1, 2000 to June 30, 2001 obtained from the 2000 Annual Filing TRPs for NECA and those few ROR LECs (other than Interstate Telephone Company for which data were not available) that do not participate the NECA CCL pool, namely, ALLTEL Georgia Communications Corp., Georgia ALLTEL Telecom, Inc., CenturyTel of Ohio, Warwick Valley Telephone Company New Jersey and New York, respectively, and Great Plains Communications.

12 183 F.3d 393, 425 (5th Cir.1999), *cert. denied sub nom AT&T Corp. and MCI WorldCom Corp. v. Cincinnati Bell Telephone Company*, 120 S.Ct. 2237 (June 5, 2000), as implemented by the Commission, *Federal-State Joint Board on Universal*

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portion of the rural carriers' USF obligations because this would violate the competitive neutrality provisions of Section 254.

II. THE COMMISSION SHOULD ADOPT THE RTF PLAN AS A MEANS OF PROVIDING STABILITY AND ENCOURAGING INVESTMENT AND COMPETITION IN RURAL AREAS.

The FNPRM (¶ 4) seeks comment on the "Joint Board's conclusion that the [RTF plan] is a good foundation for implementing a rural universal service plan for the next several years" and asks whether it should be adopted "as a means of providing stability to rural carriers over the next several years and encouraging investment in rural infrastructure." It also asks whether the RTF plan provides USF support that is "sufficient" for purposes of the Telecommunications Act of 1996.

Sufficiency of Support. The RTF has indicated that one of its key objectives was to balance the mandate to preserve and advance universal service, which requires a "sufficient" fund, while at the same time ensuring that the overall size of the fund is reasonable. *Recommended Decision* at A-3 to A-5. The RTF plan *increases* the amount of USF support available to rural carriers through a variety of mechanisms, including: (1) increasing, on a one-time basis, the high-cost loop component of the rural USF program by $118.5 million, with annual growth of the high-cost loop fund cap to be based on growth in lines plus inflation; (2) establishing a "safety net" additive to high-cost loop support whenever a rural carrier's telephone plant-in-service increases by more than 14% as

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Service and Access Charge Reform, Sixteenth Order on Reconsideration in CC Docket No. 96-45, Eighth Report and Order in CC Docket No. 96-45, Sixth Report and Order in CC Docket No. 96-262, FCC 99-290 (Oct. 8, 1999) ("Implementation Order"), *appeal pending sub nom. Comsat Corporation v. FCC*, No. 00-60044 (5th Cir.).

compared to the prior year; (3) adjusting the corporate operations expense limitation for growth without impacting the overall cap on the loop fund; and (4) adding a "safety valve" mechanism to the current limitation on high-cost support for acquired or transferred exchanges that would allow rural carriers to obtain increased support when significant new investments are made to enhance the infrastructure of such exchanges. Thus, there is every reason to believe that support will be *sufficient*.

Restraints on USF Growth. Equally important, from a consumer price tag perspective and viability of the USF program, is the fact that the RTF has undertaken a number of measures to ensure the reasonableness of the size of the USF. These include the fact that the size of the high-cost loop fund will remain bounded by a cap based on growth in lines plus inflation. Although the corporate operations expense limit is modified, any increased support on account of this fact is subject to the new indexed cap on the high-cost loop fund. Also, while growth in lines plus inflation constrains the overall growth of the high-cost loop fund, rural LECs would still only get loop support at the *lower* of their embedded cost per the Part 36 rules or the capped amount. Further, the "safety valve" for post-acquisition upgrades to transferred exchanges is limited to a maximum of 5% of the high-cost loop fund. Finally, the High-Cost Fund III mechanism would be adjusted annually based on the LEC's annual filing to determine whether a LEC needs more or less support to maintain its traffic-sensitive rate.

By contrast, under the MAG proposal, the high-cost loop fund is totally uncapped and the corporate operations expense limitation lifted. Moreover, under MAG, once a study area opts for incentive regulation, its high-cost loop support would be converted to an inflation-adjusted support per line and would no longer be based on a LEC's investment in loop facilities. Thus, LECs would be guaranteed increased loop support without having to invest in any facilities. The RAS (which is analogous to High-Cost Fund III under RTF) would also tend to increase based on line growth plus inflation, and irrespective of any obligation on the LEC's part to invest in its network.[13]

It also bears mention that the RTF's reliance on a modified embedded cost mechanism on an interim basis to size rural carriers' USF support is a recognition that there is no applicable model based on forward-looking economic cost ("FLEC") for rural carriers at this time. Implementation of the RTF plan would afford the Commission the time "to use the period during which the [RTF] Recommendation is in place to develop a long-term universal service plan that better targets support to rural companies serving the highest cost areas." *Recommended Decision* ¶ 14.

Safety Valve. The Commission (FNPRM ¶ 5) asks how the "safety valve" mechanism for subsequent investment in acquired exchanges, which is capped at no more than 5% of the indexed high-cost loop cap for that year, should apply if the total amount of support for which rural carriers are eligible exceeds the proposed cap. In this circumstance, AT&T recommends that "safety valve" support be apportioned among eligible carriers on a *pro rata* basis. Also, consistent with the provisions of Section 54.305 of the Commission's rules, "safety valve" support should transfer to the follow-on carrier if the exchange is subsequently sold.

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13 Under MAG, the total common line and traffic sensitive revenue per line for LECs opting for incentive regulation grows by lines plus inflation via the revenue per line mechanism. Because RAS covers the shortfall between total common line plus traffic sensitive revenue and the amount collected from rates and other support, the RAS will also tend to grow by an amount comparable to lines plus inflation.

USF Support in Competitive Areas. Another feature of the RTF plan fixes per-line support once competitive carriers enter a study area. The Commission (FNPRM ¶ 6) asks about the relationship of the cap on the high-cost loop support to fixed per-line support in competitive study areas. As explained in an RTF *ex parte*,[14] under the current mechanism, Section 54.307 of the FCC's rules provides for the per-line support to be portable when a competitor wins a line from an incumbent or when the competitor serves "new subscriber lines" in the incumbent's study area. Because much of the incumbent's reported cost of providing these loops are fixed, the incumbent does not shed much reported cost when it loses a line to a competitor and thus, in subsequent years, the per-line support that would be made portable would be increased. This phenomenon would be exacerbated as "new subscribers" are served by the competitor because the higher per-line support is applied to both carriers' lines, resulting in the potential for the current high-cost loop fund to grow significantly as competition increases.

The RTF plan addresses this problem in two ways. First, it provides for a new indexed cap on the growth of the incumbents' portion of the high-cost loop fund. Specifically, the maximum annual growth to the fund is limited to the Rural Growth Factor ("RGF"), which is a measure of the change in incumbent rural carrier loop count plus inflation.[15] Second, for those study areas where competitors have entered, the RTF would

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[14] *See Ex Parte* Letter, dated December 14, 2000, from William R. Gillis, Chair, Rural Task Force to FCC Commissioners.

[15] *See Recommended Decision* at A-24 (RTF Recommendation at Subsection IV(B)(1)(b)).

establish study area-specific per-line support that is allowed to grow by the RGF.[16] Absent any other constraint, this per-line support, when applied to both the incumbents' and the competitors' lines in the study area could yield total support for the study area exceeding that which the incumbent would have received alone under the new indexed capping mechanism of the high-cost loop fund. However, the RTF plan further constrains the *incumbent's* portion of the high-cost loop support in the study area to what that study area's share of the new cap mechanism would have yielded under Subsection IV(B)(1)(b).[17] This additional constraint has the *de facto* effect of constraining the incumbent's per-line support, and therefore, under the portability rules of Section 54.307, a corresponding constraint on competitors' per-line support. In this manner, the RTF plan guards against explosive growth of the high-cost loop fund due to competitive entry.

Safety Net Additive. The Commission (FNPRM ¶ 7) asks whether or not the safety net additive would permit rural carriers to recover more than 100% on their incremental loop investment. The safety net additive would not permit a study area to receive more safety net support than the study area's high-cost loop fund support would have been if the indexed cap had not taken effect for the year. Thus, the proposed safety net additive would *not* enable rural carriers to recover more than 100% reimbursement on their incremental loop investment.

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[16] *See Recommended Decision* at A-25 to A-26 (RTF Recommendation at Subsections IV(B)(1)(c)(ii)(A) through (C)).

[17] *See Recommended Decision* at A-26 (RTF Recommendation Subsection IV(B)(1)(c)(ii)(D)).

III. THE USF LAG MUST BE ELIMINATED BEFORE THE FCC ADOPTS ANY MODIFICATIONS THAT WOULD INCREASE THE SIZE OF THE USF, AND THE CONTRIBUTION BASE SHOULD BE BROADENED.

Under the RTF plan, the rural carrier component of the USF will be larger than it is today. In this regard, AT&T notes that it is supportive of the RTF's recommendation that USF support should be based the broadest possible assessment base, including intrastate revenues, even if that outcome requires the Commission to seek additional statutory authority from Congress.[18] Broadening of the contribution base is essential to ensure its stability and neutrality, so that all who benefit from universal service contribute to its support.

Moreover, as AT&T has previously shown, the Commission's prior-year assessment methodology for USF contributions systematically disadvantages certain carriers, violates statutory requirements, discourages local competition and should be promptly revised.[19] Section 254(d) of the Telecommunications Act of 1996 requires that all interstate telecommunications service providers make an equitable and nondiscriminatory contribution to universal service support. The Commission's current USF recovery mechanism is profoundly anticompetitive and does not comply with this statutory directive because it means that carriers with declining interstate revenues will be inordinately

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18 *See Recommended Decision* at A-8 n.12.

19 *See* AT&T Comments on USF Lag FNPRM, filed November 30, 2000, and AT&T Reply Comments on USF Lag FNPRM, filed December 14, 2000, in *Federal-State Joint Board on Universal Service, etc.*, CC Docket No. 96-45, Further Notice of Proposed Rulemaking and Order, FCC 00-359, released October 12, 2000 ("USF Lag FNPRM"). *See also* AT&T Petition for Reconsideration, CC Docket No. 96-45, filed March 1, 2000; AT&T *Ex Partes* filed January 14, 2000, February 10, 2000, and October 10, 2000 in this proceeding.

disadvantaged as compared to carriers with increasing interstate revenues. Specifically, it will put interexchange carriers, who must compete with RBOCs as they gain entry into the long distance market, at a severe and untenable competitive disadvantage. Alleviating the USF lag is necessary to remove the competitive distortions of the current USF assessment mechanism which penalizes carriers with decreasing revenues and unfairly favors carriers with increasing revenues.

The Commission should immediately address this inequity, as contemplated in its *USF Lag FNPRM*,[20] *prior* to increasing the size of the USF to accommodate any rural carrier concerns. Otherwise increasing the size of the USF to accommodate rural carrier concerns would be intolerable because it would exacerbate the USF lag problem.

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20 *See* n.19 *supra*.

CONCLUSION

For the reasons stated above, the Commission should implement the RTF plan in its entirety by July 1, 2001 and should eliminate the competitive imbalance caused by the USF lag prior thereto. If, for any reason, the RTF access reform proposal and USF lag relief are delayed beyond July 1, 2001, then all universal service modifications that are part of the RTF should likewise be delayed to maintain the delicate balance between competing interests that the RTF has integrated into its comprehensive package.

Respectfully submitted,

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Proposed Rules for High-Cost Fund III

a. Rules recognizing the establishment of an additional section of the overall universal service fund:

Section 54.304 is added as follows:

§54.304 Rural Non-Price Cap Carrier Access Support (HCFIII)

Beginning July 1, 2001, any rural non-price cap telecommunications carrier as defined in section 69.2(zz) shall receive HCFIII.

(a) HCFIII shall be computed for each study area annually by the Administrator.

(b) HCFIII shall be adjusted annually based on the annual interstate access filings of the Rural Carriers that are rate-of-return regulated.

(c) For rate-of-return rural carriers, HCFIII shall be computed so that the total projected interstate common line and traffic sensitive access charge revenues, comprised of end user common line revenues pursuant to section 69.104, carrier common line revenues pursuant to section 69.105 and RCAP revenues pursuant to section 69.130, plus Long-Term Support revenues received pursuant to section 54.303, plus Local Switching Support revenues received pursuant to section 54.301, plus Universal Service End User Charge revenues received pursuant section 69.159 plus the HCFIII shall equal the projected interstate common line plus traffic sensitive revenue requirement for the same period. The RCAP revenues shall be the traffic sensitive revenues computed for the prospective annual tariff period pursuant to sections 69.106, 69.109, 69.110, 69.111, 69.112, 69.113, 69.120, and 69.124.

(d) The administrator shall calculate and distribute the HCFIII on a per-line basis so that each participant will receive its projected interstate common line plus switched traffic sensitive revenue requirement for the period, subject to the portability and disaggregation requirements of section 54.308.

(e) The amount of HCFIII is not subject to a capping mechanism.

b. Rules related to changes in end user common line charges.

Section 69.104 is amended by deleting the present section and replacing it with the following:

§69.104 End user common line charge for non-price cap LECs

(a) This section is applicable only to non-price cap LECs. A charge that is expressed in dollars and cents per line per month shall be assessed upon end users that subscribe to local exchange telephone service or Centrex service to the extent they do not pay carrier common line charges. A charge that is expressed in dollars and cents per line per month shall be assessed upon providers of public telephones. Such charge shall be assessed for each line between the premises of an end user, or public telephone location, and a Class 5 office that is or may be used for local exchange service transmissions.

(b) Beginning July 1, 2001, the maximum end user common line charges for all residential and single-line business lines shall be no higher than the maximum amounts for end user common line charges of price cap carriers stated in section 69.152 (d)(1)(ii)(A) –(D) (the "stated amounts"). Assuming such comparability, the maximum end user common line charge for residential and single business lines will change to $5.00 per month on July 1, 2001, and change annually thereafter consistent with the amounts stated in section 69.152. Maximum end user common line charges for multi-line business lines and for each subscriber line associated with a public telephone will change from $6.00 per line to $9.20 per line effective July 1, 2001.

(c) The End User Common Line charge for each residential local exchange service subscriber line shall be the same as such charge for each single-line business local exchange service subscriber line.

(d) A line shall be deemed to be a residential subscriber line if the subscriber pays a rate for such line that is described as a residential rate in the local exchange service tariff. Effective July 1, 2001, for purposes of this section, "residential subscriber line" includes residential lines that a non-price cap LEC provides to a competitive LEC that resells the line and on which access charges may be assessed.

(e) A line shall be deemed to be a single-line business subscriber line if the subscriber pays a rate that is not described as a residential rate in the local exchange service tariff and does not obtain more than one such line from a particular telephone company.

(f) No charge shall be assessed for any WATS access line.

(g) A non-price cap LEC shall assess no more than one End User Common Line charge as calculated under the applicable method under this section for Basic Rate Interface integrated services digital network (ISDN) service. No more than five End User Common Line charges shall be assessed as calculated under this section for Primary Rate Interface ISDN service.

(h) In the event that a non-price cap LEC charges less than the maximum End User Common Line charge for any subscriber lines, it may not recover the difference between the amount collected and the maximum from carrier common line charges or HCFIII as defined in section 54.304.

c. Rules related to changes in carrier common line and traffic sensitive rates.

Section 69.1 (d) is added as follows:

(d) Effective on July 1, 2001 with the implementation of section 69.130, the provisions as found in sections 69.106, 69.109, 69.110, 69.111, 69.112, 69.113, 69.120 and 69.124 are constrained by section 69.130. The computation of rates pursuant to section 69.130 shall be governed by the rules set forth in this chapter and other applicable Commission Rules and orders.

Section 69. 2 Definitions are amended as follows:

(ww) "Projected Interstate Common Line and Traffic Sensitive" revenue requirements shall be computed for each Rural Carrier study area pursuant to Sections 69.301 through 69.409.

(xx) "High Cost Fund III (HCFIII)" is the portable amount that shall be distributed to rural non-price cap telecommunications carriers and to any competitive eligible telecommunications carriers (CETCs) operating in the same service areas. For rate-of-return carriers, it represents the difference between the projected interstate common line and traffic sensitive revenue requirements, as defined in this section, and the projected sum of (1) the maximum amount of end user common line revenues allowed pursuant to the schedule described in section 69.152, (2) carrier common line revenues pursuant to section 69.105 and RCAP traffic sensitive revenues pursuant to section 69.130, (3) the Long-Term Support revenues received pursuant to section 54.303 for the same period, (4) the Local Switching Support revenues received pursuant to section 54.301 for the same period, and (5) the Universal Service End User Charges calculated pursuant to section 69.159. The RCAP revenues will be the traffic sensitive revenues computed for the period 20xx pursuant to sections 69.106, 69.109, 69.110, 69.111, 69.112, 69.113, 69.120, and 69.124.

(yy) "Rural Carrier Access Price (RCAP)" is the targeted composite or average traffic sensitive rate which in aggregate the Commission determines ILECs should charge IXCs for interstate access service either through individual company or association tariffs.

(zz) "Rural Non-price cap Carrier" is a carrier that has not elected to be regulated by incentive regulation.

§69.105(b)(2) through (b)(5) is replaced with the following:

(b)(2) Beginning July 1, 2001, the carrier common line charge shall no longer be assessed, except for a transitional charge based on the calculations described in section 69.105(b)(3).

(b)(3) Beginning July 1, 2001, an annual transitional per minute carrier common line charge will be established to recover the revenue requirement representing the difference between the maximum end user charges for residential and single-line business lines charged in 20xx and the maximum amount allowed pursuant to the schedule described in section 69.152. This charge shall be assessed on originating access minutes.

Section 69.130 is added as follows:

§69.130 Calculation of Rural Carrier Access Price (RCAP)

Concurrent with the implementation of section 54.304 and effective on July 1, 2001, the average traffic sensitive charge, as defined in section 61.3(e), assessed by exchange carriers subject to this section shall not exceed $0.0095 per minute.

d. Rules related to the elimination of Flowback

Section 69.159 is added as follows:

§69.159 Universal Service End User Charges for Rural Non-price cap Carriers

To the extent the Rural Non-price cap Carrier makes contributions to the Universal Service Support Mechanisms pursuant to sections 54.706 and 54.709 and the Carrier seeks to recover some or all of the amount of such contribution, the Carrier shall recover those contributions through a charge to end users other than Lifeline users. The charge to recover these contributions is not part of any other element established pursuant to Part 69. Such a charge may be assessed on a per-line basis or as a percentage of interstate retail revenues, and at the option of the Carrier, it may be combined for billing purposes with other end user retail rate elements.

CERTIFICATE OF SERVICE

I, Ann DeGenaro, do hereby certify that on this 26th day of February, 2001, a copy of the foregoing "AT&T FNPRM Comments on Joint Board Rural Task Force Recommended Decision" was served by U.S. first class mail, postage prepaid, on the parties named on the attached Service List.

/s/ Ann DeGenaro
Ann DeGenaro